

RESTORING TO TRIBAL OWNERSHIP CERTAIN LANDS
UPON THE COLVILLE INDIAN RESERVATION, WASH.,
AND FOR OTHER PURPOSES

JUNE 20, 1951.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. MORRIS, from the Committee on Interior and Insular Affairs,
submitted the following

REPORT

[To accompany H. R. 2387]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H. R. 2387) restoring to tribal ownership certain lands upon the Colville Indian Reservation, Wash., and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill, as amended, do pass.

The amendments are as follows:

AMENDMENTS TO H. R. 2387

Page 1, line 5, change "43" to "34".

Page 2, lines 2 through 4, strike out all the language in these lines and insert in lieu thereof the following:

sell tribal lands and use the proceeds of sale for the acquisition of lieu lands, and to acquire through purchase, exchange, or relinquishment tribal lands, trust or restricted Indian allotments, and other lands or interests therein, including water rights.

Page 2, lines 8 to 10, strike out the sentence beginning with "This" in line 8 and ending with "deceased" in line 10.

Page 2, lines 10 to 14, strike out the sentence beginning with "In" and ending with "Indian" and insert in lieu thereof the following:

Non-Indian owned land may be acquired pursuant to this Act only with the consent of the county board of commissioners of the county in which the land is located. Indian-owned land may be disposed of, and land may be acquired for a tribe or individual Indian, pursuant to this Act, only with the consent of the tribe or individual Indian concerned.

Page 2, lines 18 through 19, strike out all the language in lines 18 and 19 and insert in lieu thereof the following word: "concerned".

REPORT ON THE BILL

HISTORY

An identical bill was considered by the Committee on Public Lands in the Eighty-first Congress and after certain amendments was reported favorably. It passed the House as amended on May 16, 1949. The Senate committee acted favorably on the House bill and reported it with one corrective amendment. The Senate failed to act on the bill in the Eighty-first Congress.

EXPLANATION

The purpose of this bill is to restore to tribal ownership approximately 818,000 acres of land on the Colville Indian Reservation, Wash. Its enactment is recommended by the Department of the Interior, the Superintendent of the Colville Reservation, the Colville Tribal Council, the county commissioners, and the Member of Congress from the area concerned.

These lands were temporarily withdrawn from all forms of entry or disposition by departmental order of September 19, 1934, with a view of restoring them to tribal ownership under the provisions of the Indian Reorganization Act of June 18, 1934. However, as the Colville Indians voted to exclude themselves from the provisions of this act, the restoration of the lands to tribal status may be accomplished only by congressional authority.

The Colville Reservation was established by Executive order of July 2, 1872. The original reservation comprised an area of approximately 2,886,000 acres. In 1892 an area of approximately 1,500,000 acres in the north half of the reservation was restored to the public domain. Prior to opening this area to settlement, 660 Indians were allotted a total area of 51,653 acres, or an average of 78.3 acres each. The balance of the area was opened to settlement under the laws applicable to disposition of public lands in the State of Washington. Each entryman was required to pay \$1.50 per acre for land homesteaded in addition to the regular fee. These proceeds were set aside for the benefits of the Indians. Later legislation created the Colville National Forest, which was comprised of about 760,000 acres of the undisposed lands in the north half of the reservation.

On December 1, 1905, 350 of the estimated 551 adult male Indians of the Colville Indian Reservation signed an agreement with James McLaughlin, United States Indian inspector, ceding certain lands to the Federal Government. (It is extremely doubtful that there were only 551 adult male Indians on the reservation at that time. There are indications that the correct figure was between 700 and 800—consequently, the 350 signed away the lands of quite a large number of Indians.)

The 1905 agreement relinquished to the United States all right, title, and interest of the Indians to the lands embraced within the so-called diminished Colville Indian Reservation, provided that allotments of lands of 80 acres each were made to every man, woman, and child

belonging to or having tribal rights on the reservation. This proviso was fulfilled.

The agreement also contained the condition that the Indians would then be paid for the northern portion, containing approximately 1,500,000 acres, which was vacated and restored to the public domain by the act of July 1, 1892, and that the Indians would receive \$1,500,000 in full payment.

Present-day Colville Indian leaders feel that their forefathers were betrayed by the Federal Government, probably through erroneous interpretation, when Mr. McLaughlin negotiated the agreement of December 1, 1905, and stipulated that payment for the north half was contingent on the Indian signing away additional portions of their diminished land base.

They lay no claim to the northern half of the total reservation (although it was solemnly ceded to them) but they want a clarification of their rights and property holdings in the diminished area that was partly opened to settlement in 1906, but was withdrawn by the Executive order of 1934.

At hearings held on this bill before a subcommittee of the Committee on Public Lands in the Eighty-first Congress, representatives of the Colville Tribe and the Superintendent of the reservation testified that the "opened" lands should be restored to tribal ownership for the following reasons:

1. To provide a secure land base from which to begin a program of permanent development;
2. To provide economic farming and grazing units and stabilize the timber industry through which at least two-thirds of the Colville Indians can make a decent living;
3. To make possible the full and orderly development of land in a particular direction which is consistent with the needs of a small minority group; and
4. To prevent an excessive burden on the county governments for relief for the Indians which would result if the lands were utilized for other purposes.

In effect, the enactment of this legislation will provide a clear title to these lands to the Colville Indians. These Indians have never received compensation for such lands which belong to them, according to evidence at the hearings.

Certain members of the committee at the recent hearings before the Subcommittee on Indian Affairs expressed concern over the possibility that this legislation might evidence a tendency on the part of the committee to enlarge Indian reservations rather than provide allotments and patents in fee to individual Indians, and that the latter policy of issuing patents in fee rather than enlarging reservations seemed a more plausible method for bringing about the termination of Federal supervision and control over the American Indian. The Department, in answer to such inquiry by certain committee members, pointed out that the enactment of this legislation was a step in the direction of providing the basis upon which to place the Indians in the position of assuming control over their own lands and the subsequent placing of such land on the tax rolls. The committee has evidenced a sincere desire to report only that legislation which will work toward the final goal of ending of Federal supervision and control over the Indians.

It is with the assurance from the Department of the Interior that the passage of this legislation is not to perpetuate the Indian problem, but rather to end it, that the committee acted favorably in giving to these Indians as a tribe clear title to the land, which, in the opinion of the committee, justly belongs to them.

The present population of the reservation is approximately 3,500 persons. Except for the 2,500 persons who received allotments before the rolls were closed in 1914, the Indians have no other land than that represented by small inherited interest. If the young Indians are to become farmers and ranchers they must have land.

Should the Indians lose this land, the local county governments would be forced to provide for a large number of destitute persons. The counties are in no position to assume this burden. The county commissioners, by resolution, have expressed willingness to support action for the restoration of the lands to tribal trust status.

Certain clarifying amendments have been made at the suggestion of the Department of the Interior.

The favorable report of the Department of the Interior reads as follows:

UNITED STATES DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D. C., May 10, 1951.

HON. JOHN R. MURDOCK,
*Chairman, Committee on Interior and Insular Affairs,
House of Representatives.*

MY DEAR MR. MURDOCK: Reference is made to your request for a report on H. R. 2387, a bill restoring to tribal ownership certain lands upon the Colville Indian Reservation, Wash., and for other purposes.

I recommend the enactment of H. R. 2387, with the amendments hereinafter suggested.

The lands proposed for restoration are approximately 818,000 acres, being the "opened" undisposed-of lands of the diminished Colville Reservation, authorized to be classified and opened to public disposition by the act of March 22, 1906 (34 Stat. 80). The Presidential proclamation of May 3, 1916 (39 Stat. 1778), opened for entry only the irrigable, grazing, and arid lands within the area. The lands classified as mineral lands were subject to location and disposal under the mineral-land laws of the United States. By departmental orders of September 19, 1934, and November 5, 1939, all these lands were temporarily withdrawn from further disposition through entry or sale, until the matter of their restoration to tribal ownership could be given appropriate consideration.

The act of March 22, 1906, was based upon the inequitable agreement of December 1, 1905. This agreement provided for allotments of 80 acres to each man, woman, and child belonging to or having tribal rights on the Colville Indian Reservation, and required that they cede, grant, and relinquish to the United States all the right, title, and interest they had to all other lands embraced within the so-called diminished Colville Indian Reservation. The proceeds from the sale of these ceded lands by the United States were, however, to be paid to the Indians. It is clearly evident now that the allotted lands will not support the Indian population of the reservation.

The undisposed-of ceded lands, including approximately 475,000 acres classified as timberlands, are widely scattered over the entire reservation. For a number of years the Indians have been requesting that these lands be restored to them to provide a secure economic base which they might develop. H. R. 2387 would restore these lands to tribal ownership, subject to any existing valid rights, and provide a means for consolidation of Indian and non-Indian holdings on the reservation within Ferry and Okanogan Counties, Wash., through purchase, exchange, and relinquishment.

Enclosed for information and consideration with respect to this matter is a report entitled "Justification for Restoration 'Opened' Lands Diminished Portion Reservation." This report discloses that the economic security of the Colville Indians requires the expansion of the cattle industry and the continuance of a permanent timber industry on the reservation; that the expansion of both of

these industries is dependent on the restoration to a tribal status of the undisposed-of "opened" lands; and that 97 percent of the tribal income is derived from these lands. The further expansion of these industries will aid the economic improvement of many Colville Indians, including those who served in the Armed Forces during the recent war. The tribe has had control of these lands, the same as tribal lands, over a long period of years, and has used the income therefrom for tribal purposes.

A land-consolidation program, involving Indians and non-Indians, is now in operation on the Colville Reservation, made possible by the appropriation of \$100,000 of tribal funds in 1939 and an additional \$50,000 in 1944. Restoration of the "opened" lands and authority to acquire, sell, and exchange lands will aid materially in this work, which is necessary to permit maximum utilization of the lands and resources. The proposed legislation would therefore be of great benefit to the Indians and is essential in carrying out the plan to restore and develop, in part, the land base heretofore diminished through the opening of their lands to public disposition.

The officials of Ferry and Okanogan Counties have indicated their approval of this legislation.

The following amendments to H. R. 2387 are proposed for purposes of clarification and protection of the interests of the Indians:

1. In line 5, page 1, change "43" to "34."

2. Change lines 2 to 4 inclusive, page 2, to read as follows: "sell tribal lands and use the proceeds of sale for the acquisition of lieu lands, and to acquire through purchase, exchange, or relinquishment tribal lands, trust or restricted Indian allotments, and other lands or interests therein, including water rights."

The purpose of this amendment is to repel any inference that the power to sell tribal lands may be exercised apart from the acquisition of lieu lands, and to clarify the scope of the authority to acquire lands needed for consolidation purposes. Both tribally and individually owned Indian lands might be exchanged for other lands in order to effect such adjustments.

3. In lines 8 to 10 inclusive, page 2, delete the sentence beginning with "This" and ending with "deceased." The sentence is ambiguous, and adds nothing to the authority contained in the rest of the section.

4. In lines 10 to 14, inclusive, page 2, delete the sentence beginning with "In" and ending with "Indian," and substitute in lieu thereof the following:

"Non-Indian owned land may be acquired pursuant to this Act only with the consent of the County Board of Commissioners of the county in which the land is located. Indian owned land may be disposed of, and land may be acquired for a tribe or individual Indian, pursuant to this Act, only with the consent of the tribe or individual Indian concerned."

This amendment is intended to clarify the identity of the county officers who must approve the acquisition of non-Indian owned land, and to add an additional requirement that consent be obtained from the Indian tribe or individual Indian whose land is to be disposed of, or for whom land is to be acquired, under this legislation.

5. Change lines 18 and 19, page 2, to read "concerned." Land the title to which is in the United States in trust for Indians is not subject to State ad valorem taxes, and no specific provision for exemption from such taxes is necessary. *United States v. Board of Commissioners of Fremont County, Wyoming* (145 Fed. 2d 329, cert. denied, 323 U. S. 804). The exemption from State ad valorem taxes stemming from the taking of title in the name of the United States will protect the land base of the Indians, and the lands acquired under this bill, whether for an Indian tribe or individual Indians, will have the same status with respect to taxability as other Indian lands held in trust by the United States, including those restored to the Indians by this bill.

The Bureau of the Budget has advised me that there is no objection to the submission of this report to your committee.

Sincerely yours,

MASTIN G. WHITE,
Acting Assistant Secretary of the Interior.

The Committee on Interior and Insular Affairs unanimously reports and urges the passage of this bill, as amended.

